

Relief Requested Without Hearing

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE**

In re:)	
)	
KITTERY POINT PARTNERS, LLC,)	Chapter 11
)	Case No. 17-20316
Debtor.)	

**DEBTOR'S APPLICATION UNDER 11 U.S.C. § 327, FED. BANKR. P. 2014,
AND D.ME. LBR 2014-1 FOR AUTHORITY TO EMPLOY THE LAW
FIRM OF ROACH, HEWITT, RUPRECHT, SANCHEZ AND BISCHOFF
AS SPECIAL COUNSEL**

Pursuant to 11 U.S.C. § 327, Rule 2014 of the Federal Rules of Bankruptcy Procedure, and D. Me. LBR 2014-1, Kittery Point Partners, LLC, the Debtor in the above-captioned Chapter 11 case (the "Debtor"), hereby applies for authority to employ the law firm of Roach, Hewitt, Ruprecht, Sanchez and Bischoff P.C. ("RHRSB") as Special Counsel in this case.

In support of this Application, the Debtor states as follows:

1. On June 21, 2017, (the "Petition Date"), the Debtor filed with this Court a voluntary petition (the "Petition") for relief under Chapter 11 of Title 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.* (the "Code").
2. Since the Petition Date, the Debtor has remained in possession of its property as a debtor in possession pursuant to Sections 1107 and 1108 of the Code.
3. This Court has jurisdiction over this case pursuant to 28 U.S.C. §§ 157(a), 1334(b), 1408(1), and the standing order of the United States District Court for the District of Maine dated August 1, 1984, pursuant to which all cases filed in Maine under Title 11 are automatically referred to this Court. This is a core proceeding; the Court has jurisdiction to enter a final order on this Application pursuant to 28 U.S.C. § 157(b)(2)(A).

4. Prior to the Petition Date, RHRSB served as counsel for the Debtor in relation to the prosecution of an appeal (the “Appeal”) in the Maine Supreme Court of an Order of the Maine Superior Court, dated November 30, 2016, which was entered against the Debtor and in favor of Bayview Loan Servicing, LLC and M & T Mortgage Corporation (combined, “Bayview”) in proceedings then pending in the Superior Court, entitled Kittery Point Partners, LLC vs. Bayview Loan Servicing, LLC and M & T Mortgage Corporation, Docket No. 11-0177. As of the Petition Date, the Appeal had been fully briefed, and awaited oral argument before the Law Court.

5. By this Court’s Order dated November 7, 2017 [D.E. 72], the Appellee in the Appeal, Bayview, was granted limited relief from stay for the sole purpose of requesting that the Law Court reschedule oral argument on the Appeal. Bayview has made that request, but as of this date, oral argument has not been scheduled.

6. Based on the existing, pre-petition relationships between the Debtor and RHRSB, the Debtor believes it would be efficient and economical to employ RHRSB as special counsel in this case, in order to allow RHRSB to continue its existing representation of the Debtor and make oral argument in the Appeal, once scheduled, and to provide related services as appellate counsel for the Debtor and as it deems necessary or advisable. RHRSB prepared and filed all appellate briefs, and is fully knowledgeable about the facts and law pertaining to the Appeal

7. To best of the Debtor’s knowledge, neither RHRSB nor any of its attorneys have any connection with the Debtor, its creditors, or any other party in interest, or their respective attorneys and accountants, the United States Trustee, or any person employed in the United States Trustee’s Office in respect of the Appeal. See Verified Statement Of Attorney Filed By

Clifford H. Ruprecht, Esquire Pursuant To Fed. R. Bankr. P. 2014(a) And D. Me. LBR 2014-1(a) (the “Verified Statement”), which is filed concurrently herewith.

8. Subject to approval of this Court, the Debtor has agreed to pay RHRSB for services rendered, and to reimburse RHRSB for expenses incurred on its behalf, in accordance with RHRSB’s usual and regular rates and charges in effect from time to time. Such rates and charges are subject to adjustment from time to time in accordance with RHRSB’s policies applicable to clients of the firm in general. In addition, principals of the Debtor have agreed to provide RHRSB with a retainer of \$5,000, to be applied in satisfaction of allowed fees and expenses.

11. The Debtor believes that the employment of Special Counsel on the foregoing terms is in its best interests of the estate and its creditors.

12. On December 5, 2017, the Debtor served, either electronically or via first class U.S. mail postage prepaid a copy of this Application, the Verified Statement, and a proposed form of order (the “Proposed Order”) on the United States Trustee’s Office, the secured creditors of the Debtor, the Debtor’s 20 largest unsecured creditors, and upon each person who has filed a notice of appearance in this case. The Debtor hereby requests that this Court find that such service is sufficient notice to all parties in interest under the circumstances of this case.

WHEREFORE, the Debtor respectfully requests that this Court enter an order approving this Application and appointing RHRSB as Special Counsel, and granting the Debtor such other and further relief as is just and equitable.

DATED: December 5, 2017

/s/ George J. Marcus

George J. Marcus, Esq.

David C. Johnson, Esq.

Katie M. Krakowka, Esq.

MARCUS | CLEGG

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Attorneys for the Debtor

CERTIFICATE OF SERVICE

I, Holly C. Pelkey, hereby certify that I am over eighteen years old and caused a true and correct copy of the above Motion, Verified Statement, and proposed Order to be served on the parties at the addresses set forth on the **SERVICE LIST** attached hereto either electronically or by first class U.S. mail, postage prepaid, and facsimile transmission on the 5th day of December, 2017.

/s/ Holly C. Pelkey

Holly C. Pelkey
Legal Assistant

Mailing Information for Case 17-20316

Electronic Mail Notice List

- David C. Johnson bankruptcy@marcuscleegg.com, dcj@marcuscleegg.com
- Katherine Krakowka kmk@marcuscleegg.com
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Manual Notice List

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